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Fifty-first session
Agenda item 19

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SIXTH SESSION

Written statement submitted by the International Fellowship of Reconciliation, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1296 (XLIV)

[14 February 1995]

Slavery during wartime

1. This statement addresses the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-sixth session (E/CN.4/1995/2-E/CN.4/Sub.2/1994/56). IFOR fully supports the report, in particular its decision 1994/109 on slavery during wartime.

2. The International Fellowship of Reconciliation requests the Commission on Human Rights to encourage Ms. Linda Chavez, an expert of the Sub-Commission, and the Sub-Commission to take into consideration the following information in her working paper, which she was invited to submit to the next session of the Sub-Commission. IFOR also wishes to draw the attention of the Commission to the information in its earlier written statements on the related issues (E/CN.4/1993/NGO/36; E/CN.4/1994/NGO/19; E/CN.4/Sub.2/1994/NGO/30) as well as its written statement on item 11 (E/CN.4/1995/NGO/37).

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3. One of typical examples of slavery during wartime which alarms the United Nations is the issue of so-called "comfort women", victims of sexual slavery by the Japanese Imperial Forces before and during the Second World War. IFOR wishes to point out that Japan has been bound by various sources of international law to punish the perpetrators of crimes committed against the "comfort women" victims. Those sources of international law include the following: customary international law on slavery and the slave trade, which was confirmed by the 1926 Slavery Convention; customary international law as embodied in various international human right laws, including the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity; ILO Forced Labour Convention (No. 29); and International Convention for the Suppression of the White Slave Traffic of 1910 as well as two other related Conventions of 1904 and 1921.

4. Shortly after the war in South-East Asia, a temporary court-martial undertook to investigate the case of 12 Japanese charged with war crimes, i.e. "Abduction of women and girls for forced prostitution", "Coercion to prostitution" and "Bad treatment of prisoners". (Judgement No 72/1947, d.d. 24 March 1940.) From the evidence of 35 Dutch women, it became evident that 12 Japanese nationals - 7 officers, of whom 2 were doctors, 1 non-commissioned officer and 4 civilians - had forced these women into prostitution.

5. According to the serving of the writ and summons of 6 January 1948, the defendants appeared on 26 January 1948 before the court martial at Batavia (now Djakarta). The facts envisaged have been made punishable in article 4 of the Penal Law Decree on War Crimes, Statute Book 1946, No. 45.

6. Among the considerations, the following are to be mentioned here:

(a) The Court accepted a statement, written by the former Commandant of the "Cadet Training Corps of the Southern Army, Semarang", which said in substance: "That with the tacit agreement of Headquarters of the 16th Army, Major-General XXXX, Commandant of the occupation forces at Semarang, had ordered the removal of some Dutch women from the internment camps and to distribute them among some brothels, which order was executed;

(b) That Colonel XXXX from Tokyo had arrived in April 1944 to inspect the camps and had been informed about this and that within one month thereafter a warning from the authorities in Tokyo was received, after which the brothels were closed;

(c) That in court the statements of five Japanese, of whom one was a medical doctor, were read, from which it appeared that by the end of March 1944 the military authorities had employed women from those camps as prostitutes in Semarang brothels;

(d) That from the statements of the witnesses concerned it had been proved that it was not revealed to the Dutch women the kind of work they would have to do outside the camps and that they, becoming suspicious had been given reassuring answers by the Japanese to questions on the subject;

(e) That the selected women had to leave their camps and had been transferred to Kanarielaan in Semarang, and thus could not know that they would have to work as prostitutes in brothels;

(f) That the majority of the women had been forced, through maltreatment and physical force, to suffer extramarital carnal intercourse with Japanese men;

(g) That, in the opinion of the court martial, if it had been openly and clearly revealed what the women were in for, it was highly questionable if the Japanese would have succeeded in recruiting women and girls from those camps without the use of force;

(h) That this was confirmed by the incidents in Sompok (Lampersarie) Camp, where, according to the statement of one of the defendants, the women had flocked together when it became clear what was intended, after which open resistance the camp leadership had been unable to guarantee law and order in the camp and the Japanese had decided not to select women from that camp;

(i) That one of the defendants had admitted that in several of the internment camps the purpose was kept secret, so that no problems arose when the girls and women were selected;

(j) That a number of witnesses had stated that they had been threatened with death, harsh treatment of their parents, and with a transfer to a soldiers brothel or a brothel where conditions were far worse if they persisted in their refusal to submit to serve as prostitutes;

(k) That, according to all witnesses, they were forced to sign a document, the contents of which had not been explained to them and which they could not read, because it was in Japanese;

(l) That if only for that reason, the women and girls were generally only moved to do this through deceit and force, which was not discounted by the fact that they had finally given up all resistance when it had become clear that they had arrived and been brought in such a position that resistance would not have had the slightest chance of success;

(m) That it might have been possible that there were, among the women and girls selected, some who, driven by the desire to be rescued from the internment camp at any price, had taken that chance and had resigned themselves to the consequences, but that did not alter the fact that the urge to do so must have been caused by the internment, ordered by the Japanese, and the harsh and often inhuman conditions prevailing in the internment camps;

(n) That the court had regarded the guilt of the four brothel keepers as very serious, because the shanghaied women and girls had been put in their exclusive power, and that it would have been possible for them to have alleviated the fate of the victims of whom they knew that they did not want to submit voluntarily to prostitution;

(o) That when the brothels were closed, the women were transferred to Kota Paris Camp, Buitenzorg (now Bogor), where after questioning and medical

examination, it was revealed that many had stated that they had been forced into prostitution and that some 25 to 30 of them had venereal disease;

(p) That it was considered to have been proved by the court martial that at the time and place as described in the indictment, the women and girls mentioned had been removed from the internment camps for forced prostitution;

(q) That the proven facts were contrary to the laws and customs of war, and must be qualified as war crimes: "Abduction of women and girls for forced prostitution", "Coercion to prostitution" and "Bad treatment of prisoners".

7. The court considered it proved:

(a) That the war crimes, as mentioned, had been committed against women and girls, who had been living under very harsh conditions in internment camps for a long time;

(b) That the Japanese Occupation Government itself had forced the women and girls into a state of complete dependence by robbing them of their liberty, and in this way took upon itself responsibility for their care and protection;

(c) That nevertheless representatives of this Government, taking advantage in an organized way of this condition of helplessness, dependence and subjection, had abducted a number of women and girls through deceit and force or threat.

8. Regarding the sentences to be imposed:

(a) That with the exception of two of the defendants, all others had been found guilty of having committed war crimes as described above;

(b) That one of the defendants had been sentenced to death, which sentence had been executed on 27 November 1948;

(c) That one of the defendants had been sentenced to 20 years of imprisonment, one of them to 16 years of imprisonment, one of them to 15 years of imprisonment, two of the defendants to 10 years of imprisonment, two of them to 7 years of imprisonment and one defendant to 2 years of imprisonment.

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REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SIXTH SESSION

Written statement submitted by Human Rights Advocates, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[16 February 1995]

Environment, human rights and duties imposed by the International Covenant on Civil and Political Rights

1. Since our arrival in Geneva to participate in meetings of the Commission's fifty-first session, we in Human Rights Advocates have noted that many of our colleagues seem concerned, understandably, about the possible need for further study of proposed new rules that would affect Governments. Discussions with respect to the environment and human rights must proceed, however, with full awareness of pertinent government obligations that already exist. Thus, we suggest that special note be taken of obligations that now in fact bind two thirds of all Governments which are Members States of the United Nations. To illustrate, we focus on three of the clauses in the International Covenant on Civil and Political Rights that affect families, children and indigenous peoples.

2. Article 27 of the Covenant, regarding ethnic minorities, states that "persons belonging to such minorities shall not be denied the right ... to enjoy their own culture". That enjoyment is, of course, constantly threatened by malfeasance to the environment.

3. Article 23 (1) of the Covenant states, "The family ... is entitled to protection by society and the State." Governments that continue to ignore the impacts of potentially disastrous unclear air, unclean water, contaminated food and hazardous housing are not complying with the basic mandate to help ensure that "protection".

4. More specifically, article 24 of the Covenant proclaims that "Every child shall have ... the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State." That clearly means that each Government which is a party to the Covenant must strive to help ensure minimally clear air, minimally clean water, uncontaminated food, and housing that is not, for instance, rat infested or disease prone.

5. We briefly cite those clauses to illustrate the many duties that exist now, that juridically can be avoided only in "time of public emergency which threatens the life of the nation ...". Further, under article 4 (2) of the Covenant, no derogation whatever is permitted regarding the command of article 6 that "No one shall be arbitrarily deprived of his life."

6. Several comments made by colleagues during discussions of item 19 seem to have implied that some kind of moratorium or other "pause" might be appropriate because of the complexity of developmental issues and other matters requiring coordination of relevant United Nations activities. When there appear to be serious violations of the duties accepted unreservedly by ratification of the International Covenant on Civil and Political Rights, however, this Commission and its Sub-Commission must in no way relax the constant vigilance that is called for by the Economic and Social Council in resolution 1235 (XLII), regarding allegations of reliably attested, gross violations of recognized human rights wherever and whenever they may occur. Many observers would agree that respect for that mandate has become one of the most significant among the Commission's highest responsibilities.